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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6311 of 2007
Date of decision: 7.12.2007

Surinder Singh

...Petitioner

Versus

Ram Sarup and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Baldev Raj Mahajan, Advocate for the petitioner.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated December 03, 2007 passed by the learned Civil Judge (Junior Division), Hisar whereby evidence of the defendants has been closed in a suit filed against them for perpetual injunction seeking to restrain and forbid the defendants from alienating, mortgaging, disposing off or encumbering any portion of the land in dispute.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only disposal of the present petition but the suit as well.

Learned counsel for the petitioner/defendant No.2 submitted that respondent no.1/plaintiff filed the suit on January 3, 2002. Issues therein were framed on May 24, 2003 and the plaintiff closed his evidence on September 29, 2007 after more than 4 years and 4 months. After closing of the evidence of the plaintiff, case was adjourned for the evidence of petitioner/defendants to October 15, 2007. On that date three witnesses were examined and case was adjourned to October 29, 2007. On October

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29, 2007 two witnesses of defendants were present but the case was adjourned to November 17, 2007 on the request of learned counsel for the respondent no.1/plaintiff. On that date two witnesses of the defendants were examined and case was ordered to be adjourned on December 3, 2007. On December 3, 2007, defendants moved an application that petitioner/defendant had suffered massive heart attack on October 29, 2007 and he was admitted in the Hospital and operated upon for installing stunt in his heart and was still under continuous treatment and may be given 10 days' time for completing their evidence but learned trial Court closed the evidence of the defendants vide impugned order dated December 3, 2007. He further submitted that in case one opportunity is granted to petitioner/defendants, they will produce their entire evidence on the date to be fixed by the trial Court for the purpose.

Having heard learned counsel for the petitioner, I find merit in the submissions made by learned counsel for the petitioner/defendants Keeping in view interest of justice and the fact that petitioner/defendant suffered massive heart attack and remained under treatment and seeing the conduct of the defendants that they were making efforts to lead evidence and even on the previous dates five witnesses were examined, I grant one opportunity to the petitioner/defendants for producing their entire evidence on the date to be fixed by the trial Court for the purpose. The petitioner/defendants will be at liberty to take the help of the Court to summon the witnesses. However, it is made clear that no further opportunity shall be granted to the petitioner/defendants in case, they fail to complete their entire evidence on the date fixed.

The revision petition is disposed of in the manner indicated above.

December 07, 2007 **(Rajesh Bindal)**
Pka **Judge**